

Application No. 10/751,533
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Remarks/Arguments

Claims 1, 11, 12, 14 and 21 to 28 now stand in the application. Claim 1 has been amended, incorporating the subject matter of claim 20, now canceled. Claim 11 has also been amended. Claim 21 has been amended to have it depend from claim 1. Claim 29 is now cancelled.

Claim 1 has been amended to more clearly recite the pivot pin connected to the saddle for securing the second end of the shaft to the saddle and defining an axis of rotation about which the shaft rotates between a substantially vertical and a substantially horizontal position relative to the saddle. Applicant submits that there are no new issues to consider with this amendment, since the pivot pin was already recited in former 20 (now cancelled). Further, the pivot pin defines an axis of rotation which a person of ordinary skill in the art, reasonably inferring from the specification as a whole, would understand to be inherent in the pivot pin.

Further, claim 11 has been amended to recite that the folded canopy is secured to the saddle while the shaft is attached to the saddle at the second end and while the shaft is in the substantially horizontal position relative to the saddle. Applicant submits that there are no new issues to consider with this amendment, since it is clear from the drawings (in particular, Figure 6) that the shaft is secured to the saddle in a horizontal position relative to the saddle.

The Examiner rejected claims 1, 11, 12, 14 and 20 to 29 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,918,611 (Amato '611). As claim 29 is now cancelled, the Examiner's objection to this claim is rendered moot. As for the Examiner's objection to the remaining claims, Applicant submits that claim 1 as amended, and claims dependent therefrom, are clearly distinguished from Amato '611 for the following reasons.

Amato '611 discloses a vertical shank 32 containing a rod 54 that traverses the base of the shank 32 perpendicularly. This assembly is introduced into the retaining block 76. In order to attach the shank to the saddle, the shank 32 is introduced into a vertical bore 81 and the rod 54 is introduced into a horizontal slot 79. By applying a downward pressure onto the shank, the bottom of the slot 79 is forced open by the pressure of the rod 54, the rod 54 slips into a horizontal throughbore 77, and the shank moves down to the bottom of the vertical

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bore. This arrangement allows the vertical shank to be securely held in a vertical manner when the canopy is used.

As shown in Figure 19 of Amato '611, the foldable canopy 38 and vertical shaft 32 are removed from the saddle by pulling the shaft in an upward direction from the vertical shank retaining block on the saddle 30. In this figure, the upward-directed arrow indicates that the shaft is removed from the saddle upwardly. This is done because there is no possibility for the shaft to be pivoted, while still connected to the saddle, to a horizontal position relative to the saddle. Shank proximal and retaining rod 54, which holds the shaft to the saddle, is fixedly positioned within the retaining block to maintain the shaft in an upward position.

Additionally, and as indicated in column 8 at lines 30 to 40, the shaft and canopy are replaceably stored generally horizontally on the harness by a pair of canopy storing straps 126. These straps, as indicated in Figures 18 and 19, hold the canopy and shaft on the side of the saddle after the shaft and canopy have been removed from the vertical shank block 76 and saddle 30. This is done because there is no possibility for the shaft and canopy of Amato'611 to be pivoted about a pivot pin (such as retaining rod 54) to a horizontal position while the shaft is still attached to the saddle. It is necessary for a user to physically remove the shaft from the retaining block in order to move the shaft from a horizontal to a vertical position and store the shaft and canopy on the animal. The shaft in Amato'611 has no possibility for pivoting about proximal and retaining rod 54, since the shaft is surrounded on substantially all sides by the walls of the vertical bore.

By contrast, the present invention is clearly different than that described in Amato '611. Claim 1 of the present invention, as amended, reads as follows:

An umbrella for an animal comprising:

- a saddle;
- straps connected to the saddle for attaching the saddle to the animal;
- a collapsible canopy;
- a shaft with first and second ends, the first end connected to the collapsible canopy;
- a pivot pin connected to the saddle for attaching the second end of the shaft to the saddle and defining an axis of rotation about which the shaft rotates between a substantially vertical and a substantially horizontal position

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relative to the saddle while the shaft is attached to the saddle; and
a position lock releasably securing the shaft in the vertical position when the shaft is attached to the saddle.

(bold and underlining added for emphasis)

The present invention is directed to, and specifically recites, an animal umbrella with a shaft, the second end of which is pivotally connected to the saddle. In claim 1, as amended, the second end of the shaft is attached to the saddle by a pivot pin connected to the saddle. The pivot pin defines an axis of rotation, about which the shaft rotates from a horizontal position to a vertical position and vice versa. Thus, the shaft rotates about the pivot pin on the saddle while the shaft is attached to the saddle. Applicant respectfully disagrees with the Examiner's assessment that the distal end connection in Amato '611 "is considered a pivot pin". Clearly, and in consideration of the features in Amato '611 as described above, it is not possible for a user of the umbrella of Amato '611 to pivot the shaft about an axis of rotation from a vertical position to a horizontal position relative to the saddle.

In the present invention, to store the canopy, the canopy is simply folded down, a position lock is released, and the shaft is pivoted downward about the pivot pin on the saddle into a horizontal position relative to the saddle. The folded canopy and shaft lie on the saddle down the length of the animal's back. Thus, the shaft is pivoted about the pivot pin while still attached to the saddle. As stated above, Amato '611 neither teaches nor suggests a specific pivoting means, such as the pivot pin now recited in claim 1 of the present invention. Further, it is necessary to remove the shaft of Amato '611 from the saddle in order to place it in a horizontal storage position. Such a removal is not necessary in the present invention to store the shaft in a horizontal position relative to the saddle, due to the existence of the pivot pin.

Claim 11, as amended, recites that the folded canopy is secured to the saddle while the shaft is attached to the saddle at the second end and is in the substantially horizontal position relative to the saddle. Clearly, as described above, it is not possible for the folded canopy of Amato '611 to be secured to the saddle in the substantially horizontal position relative to the saddle while the shaft is attached to the saddle.

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Therefore, Applicant respectfully submits that amended claim 1 and claims dependent therefrom are clearly patentable in view of Amato '611 and requests withdrawal of the rejection under 37 U.S.C. 102(b).

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

It is submitted that this application is now in condition for allowance, and action to that end is respectfully requested.

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